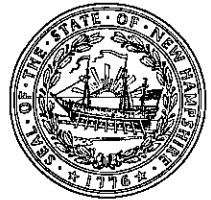




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
January 15, 2009

The Honorable Judith T. Spang
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 150, relative to removing invasive aquatic growth

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 150, relative to removing invasive aquatic growth. The Department of Environmental Services (DES) does not support this bill for the reasons described below.

HB 150 proposes a definition of "invasive aquatic growth" which includes any plants that "restrict movement in navigable waters or limit the use of important recreational waters such as beaches and camps." It also proposes that specific local officials be given authority to declare certain negative conditions caused by aquatic growth in the environment: "local assessors" for "recreational waters" and "local safety responders" for "navigable waters." HB 150 also includes provisions enabling DES to "permit removal of invasive aquatic growth by licensed contractors." The DES does not support HB 150 for the three reasons described below:


- First, the bill broadens RSA 487 beyond exotic (that is, non-native) aquatic growth by defining a new term "invasive aquatic growth" that includes native aquatic species. We believe that the line between exotic invasive species (such as milfoil, water chestnut and didymo), which as you know are a very significant problem in New Hampshire, and native species needs to be clear and should not be blurred in this chapter as proposed by this bill.
- Also, the proposed authority that would be provided to local assessors and safety responders is too ambiguous and broad to be meaningful for use in state permitting processes, and it is not clear exactly who these individuals would be in every community. Furthermore, the test as to whether native species "restrict movement in navigable waters" or "limit the use of important recreational waters" would be at best highly subjective when applied to near-shore plant growth in any New Hampshire surface water body.
- Finally, the proposed Paragraph 2 of HB 150 is unnecessary because DES already has permitting authority under RSA 482-A, the New Hampshire wetlands statute, for projects which involve dredging and filling in surface waters. Permitted projects may include those which involve the removal of vegetation and vegetative root systems from surface waters or the placement of benthic barriers for vegetation control under criteria contained in the DES Wetlands Rules. Permits for these types of projects have been issued by DES a number of times in the past (but are certainly not guaranteed depending on the merits of an individual project). Also, for proposals involving the use of aquatic herbicides, the Department of Agriculture, Markets and Food, Division of Pesticide Control has

jurisdiction and permitting authority. Please note that, for both dredge and fill and herbicide application projects, the permitting agencies are required to consult with and fully consider the opinion of other state agencies, especially the Fish and Game Department because fishery impacts are an important issue for projects involving aquatic plant removal or control in fish habitat.

In closing, DES and the other state natural resource agencies have recently noted increased public interest in the control of native plants to enhance aesthetic and recreational characteristics for some surface water bodies. For this reason, DES, the Fish and Game Department, and the Department of Resources and Economic Development are currently working to improve our joint review and approval criteria as well as implementation protocols for consideration of projects where removal or control of native aquatic species are proposed. Native plants communities are an important, integral component of well-balanced natural aquatic habitats. However, we also recognized that there are cases in which the recreational value and use of a water body may warrant control of native plant species and that there is a need to balance these two interests.

Thank you again for this opportunity to comment. Please call either me at 271-3503 or Jody Connor at 271-3414 if you have any questions or need additional information.

Very truly yours,


(s) Thomas S. Burack
Commissioner

cc: Representative Flanders
Representative Welch
Representative Casey